IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7211 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINODBHAI MANILAL PANCHAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7211 of 2005

MR MAYUR RAJGURU for Petitioner.

Mr. H.D. Dave, AGP for Respondent No. 1

..... for Respondent No. 2-6

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 25/04/2005

ORAL JUDGEMENT

Shri Rajguru, learned advocate appearing for the petitioner, original-claimant, seeks permission to delete names of respondents No. 2 to 6 as they are not required to be heard at this stage. Permission is granted.

2. Rule. Shri HD Dave, learned AGP waives service fo Rule on behalf of respondent No.1. With the consent of parties, the matter is taken up for final hearing today.

3. In this petition under Article 226/227 of the Constitution of India the petitioner, original-claimant has challenged the legality and validity of the order passed by the learned Motor Accidents Claim Tribunal (Aux.) at Palanpur, dated 16.2.2005 in MAC Petition (lodging) No. 11 of 2005 by which the prayer of the petitioner to prosecute the aforesaid MAC Petition in pauperism is rejected and the petitioner is directed to pay the Court Fee Stamp.

4. It appears from the record that the aforesaid order has been passed by the learned Tribunal without holding any enquiry as required for the purpose of deciding the pauperism application. Not only that but nothing is on record to suggest how and on what basis the learned Tribunal has come to the conclusion that the income of the petitioner is more than Rs. 1,500. In view of the fact that the aforesaid order dated 16th February 2005 is passed without holding any enquiry as required under the law, the impugned order dated 16th February, 2005 requires to be quashed and is accordingly quashed and set aside. The matter is remanded to the learned Tribunal for deciding the said application afresh in accordance with law and on merits and the learned Tribunal is directed to pass an appropriate order after holding necessary enquiry. Rule is made absolute to the aforesaid extent with no order as to costs.

{ M.R. Shah, J. }

rmr.